

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

PREAMBLE

- | | |
|--|--|
| 1. <u>Sections Affected</u> R7-3-505 | <u>Rulemaking Action</u> Amend |
|--|--|
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 15-1852(C)
Implementing statute: A.R.S. § 15-1873
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Verna L. Allen, Executive Director |
| Address: | Commission for Postsecondary Education 2020 N. Central Avenue, Suite 550 Phoenix, AZ 85004 |
| Telephone: | (602) 258-2435. |
| Fax: | (602) 258-2483 |
- 5. An explanation of the rule, including the agency's reason's for initiating the rule:**
The Commission for Postsecondary Education needs to bring the Arizona Family College Savings Program Rules into conformity with the evolving IRS Code § 529 Guidelines as regards Account Balance Limitations. The current Arizona Family College Savings Program rules state that "Any excess balances with respect to a designated beneficiary shall be promptly withdrawn as non-qualified withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(F)". This program rule amendment will change "Any excess balances" to "Any excess contributions". This program rule amendment will satisfy the evolving Internal Revenue Code § 529 guidelines.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
No study is available or was relied upon.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

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8. The preliminary summary of the economic, small business, and consumer impact:

- a. An identification of the proposed rulemaking: Arizona Family College Savings Plan, R7-3-505, adopted pursuant to A.R.S. 15-1873.
- b. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking: Persons directly affected are account owners.
- c. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking: The Commission will bear administrative costs in keeping track of the information received from the financial institutions and enforcing the penalties for non-qualified withdrawals. The financial institutions will bear the burden of ensuring that substantiation is provided for both qualified and non-qualified withdrawals.
- d. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking: None.
- e. A statement of the probable impact of the proposed rulemaking on small business: Some financial institutions are small businesses and will need to bear administrative costs in implementing and maintaining the Program.
- f. A statement of the probable effect on state revenues: No effect is anticipated as this Program is self-supported.
- g. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking: Due to the nature of the various statutory requirements, less intrusive or less costly alternatives are not available.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Verna L. Allen, Executive Director

Address: Commission for Postsecondary Education
2020 N. Central Avenue, Suite 550
Phoenix, AZ 85004

Telephone: (602) 258-2435

Fax: (602) 258-2483

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: November 5, 2001

Time: 2:00 p.m.

Location: Commission for Postsecondary Education
2020 N. Central Avenue, Suite 550
Phoenix, AZ 85004

Nature: Oral Proceeding and Adoption of Rules

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POST SECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

Section

R7-3-505. Account Balance Limitations

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

R7-3-505. Account Balance Limitations

- A.** For each designated beneficiary, the balance in all qualified ~~state~~ tuition programs, as defined in § 529 of the Code, shall not exceed the lesser of:
1. The product (rounded down to the nearest multiple of \$1000) of seven and the average one year's undergraduate tuition, fees, room and board at independent four year higher education institutions as measured and last published by the College Board's Independent College 500 Index; or
 2. The cost in current dollars of qualified higher education expenses the account holder reasonably anticipates the designated beneficiary will incur.
- B.** No person shall make any contribution to a qualified tuition program during an account year that would cause the sum of the account balances in all qualified tuition programs of the designated beneficiary as of the first day of the account year plus contributions made during the account year less withdrawals during the account year to or from any such account to exceed the maximum allowable balance set forth in subsection A. Any excess ~~balances~~ contributions with respect to a designated beneficiary shall be promptly withdrawn as a non-qualified withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(F).
- C.** No financial institution shall accept for deposit in any account a contribution if the contribution would cause the sum of the values (as of the beginning of an account year) of all qualified tuition programs of the designated beneficiary that are managed by the financial institution and contributions to such accounts less withdrawals from such accounts during the account year to exceed the maximum allowable balance set forth in subsection A.
- ~~**D.** Each year, the Commission shall review the amounts set forth in subsection (A).~~
- ~~**D.** Persons making a contribution to an account shall certify that as to the account's designated beneficiary, and to the best of the contributor's knowledge, the contribution shall not cause the balances in all qualified state tuition programs, as defined in § 529 of the Code, to exceed the account balance limitations described in subsections (A)(1) and (2) subsection.~~
- E.** If the commission determines that contributions have been made to program accounts in violation of subsection (b) or (c), it shall notify the designated beneficiary and the account owners of all accounts of such designated beneficiary. The account owners shall have 60 days after receipt of such notice to reduce the balances of the qualified tuition programs through distributions and/or changes in beneficiaries to a level less than or equal to the maximum account balance described in subsection (a). If the balances are not appropriately reduced, the commission will disqualify such accounts in reverse order of their date of opening until the sum of the balances in the accounts does not exceed the maximum allowable balance set forth in subsection (a). This subsection shall not apply to any contribution made at a time when such contributions did not cause the account balance limits to be exceeded.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE

LUXURY TAX SECTION

PREAMBLE

- | | |
|--|--|
| <p>1. <u>Sections Affected</u> R15-3-302</p> <p>2. <u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u> Authorizing statutes: A.R.S. §§ 42-1005 and 42-3004 Implementing statutes: A.R.S. § 44-7101</p> <p>3. <u>A list of all previous notices appearing in the Register addressing the proposed rule:</u> Notice of Rulemaking Docket Opening: 7 A.A.R. 3164, July 27, 2001</p> <p>4. <u>The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u> Name: Christie Comanita Address: Tax Research and Analysis Section</p> | <p><u>Rulemaking Action</u> New Section</p> |
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Arizona Administrative Register
Notices of Proposed Rulemaking

Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

E-mail: ComanitaC@revenue.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The rule prescribes reporting requirements for tobacco distributors that have sold cigarettes in Arizona from manufacturers who are not signatories to the Master Settlement Agreement ("non-participating manufacturers"). The Department is initiating the rule to implement A.R.S. § 44-7101 (the "escrow statute" or the "statute"). Among other things, the escrow statute:

1. Was enacted based upon the findings and for the purpose set forth in the statute at Section 1;
2. Requires, inter alia, that all non-participating manufacturers selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the enactment of the statute place into a qualified escrow fund the amounts per "unit sold" prescribed in Section 3(b)(1) of the statute;
3. Defines "units sold" in Section 2(j) of the statute as "the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the state on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the state;"
4. Directs the Department to "promulgate such regulations as are necessary to ascertain the amount of the state excise tax paid on the cigarettes of such tobacco product manufacturer for each year;"
5. Requires each tobacco product manufacturer that elects to place funds into escrow pursuant to the statute to annually certify to the Attorney General that it is in compliance with the statute; and
6. Authorizes the Attorney General to bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under the statute, including for the penalties set forth at Section 3 thereof.'

In furtherance of the foregoing, the monthly reports required in the rule are intended to permit the Department to ascertain the quantity of each non-participating manufacturer's cigarettes sold in Arizona by the tobacco distributor during the preceding month and the amount of Arizona excise tax paid on those cigarettes. Pursuant to A.R.S. § 42-2003(s), such information may be released to the Attorney General for purposes of determining compliance with the escrow statute and bringing enforcement actions against tobacco product manufacturers who have failed to comply.

6. Reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rule will be greater than the costs. The Department will incur additional costs in revising tobacco forms and instructions. Certain tobacco distributors will incur additional costs in order to comply with the reporting requirements of the rule. The Department and certain tobacco distributors will benefit from the reduced need for the Department to audit the tobacco distributors to gather necessary information. The Department, the Governor's Regulatory Review Council, and the Secretary of State's Office will incur the costs associated with the rulemaking process.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Christie Comanita

Address: Tax Research and Analysis Section
Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007

Telephone: (602) 542-4672

Arizona Administrative Register
Notices of Proposed Rulemaking

Fax: (602) 542-4680
E-mail: ComanitaC@revenue.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: November 14, 2001
Time: 2:00 p.m.
Location: Department of Revenue, East Valley Office
3191 N. Washington Street
Chandler, AZ
Nature: Public hearing on the proposed rulemaking

A person may submit written comments regarding the proposed rulemaking action by submitting the comments no later than 5:00 p.m., November 14, 2001, to the person listed in item #4.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE

LUXURY TAX SECTION

ARTICLE 3. TOBACCO

Section

R15-3-302. ~~Repealed Tobacco from Manufacturers Not Participating in the Master Settlement Agreement~~

ARTICLE 3. TOBACCO

R15-3-302. ~~Repealed- Tobacco from Manufacturers Not Participating in the Master Settlement Agreement~~

A. For purposes of this Section, the following definitions apply:

1. "Cigarette" has the meaning prescribed in A.R.S. § 44-7101(A), Section 2(d).
2. "Department" means the Department of Revenue.
3. "Excise taxes" means taxes imposed on cigarettes under A.R.S. Title 42, Chapter 3.
4. "Master Settlement Agreement" has the meaning prescribed in A.R.S. § 44-7101(A), Section 2(e).
5. "Non-participating manufacturer" means a tobacco product manufacturer that is not a "participating manufacturer."
6. "Original participating manufacturers" means Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, and R.J. Reynolds Tobacco Company, and the respective successors of each of them.
7. "Participating manufacturer" means the "original participating manufacturers" and "subsequent participating manufacturers."
8. "Subsequent participating manufacturers" means tobacco product manufacturers that have become signatories to the Master Settlement Agreement but that are not original participating manufacturers, and the respective successors of each of them.
9. "Tobacco distributor" means a "distributor" as defined in A.R.S. § 42-3001(5) that has paid or is obligated to pay excise.
10. "Tobacco product manufacturer" has the meaning prescribed in A.R.S. § 44-7101(A), Section 2(i).

B. The Department shall maintain a current list of participating manufacturers and make it available to tobacco distributors.

C. A tobacco distributor shall report monthly to the Department on a form provided by the Department:

1. The brand names of each non-participating manufacturer's cigarettes received by the tobacco distributor in Arizona;
2. The brand names of each non-participating manufacturer's cigarettes received by the tobacco distributor outside Arizona and sold by the tobacco distributor in Arizona;

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3. The name and address of the non-participating manufacturer of each brand of cigarettes identified by the tobacco distributor;
4. The number of individual cigarettes of each brand of each non-participating manufacturer sold in Arizona by the tobacco distributor during the preceding month, separately stating:
 - a. The number of cigarette packages sold and the number of individual cigarettes in each package; and
 - b. The number of "roll-your-own" tobacco containers sold and the number of individual cigarettes in each container;
5. The amount of excise taxes paid or to be paid on the cigarettes addressed in subsection (4), separately stating:
 - a. The amount of excise taxes paid by purchasing and affixing tax stamps to cigarette packages;
 - b. The amount of excise taxes to be paid with the tobacco distributor's tax return for "roll-your-own" tobacco containers; and
 - c. Any other amount of excise taxes paid or to be paid on the cigarettes not addressed in subsections (a) or (b);
6. The number of individual cigarettes of each brand of each non-participating manufacturer received by the tobacco distributor in Arizona, separately stating:
 - a. The number of cigarette packages received and the number of individual cigarettes in each package; and
 - b. The number of "roll-your-own" tobacco containers received and the number of individual cigarettes in each container;
7. The number of individual cigarettes of each brand of each non-participating manufacturer that the tobacco distributor exported from Arizona without payment of excise taxes, separately stating:
 - a. The number of cigarette packages exported and the number of individual cigarettes in each package; and
 - b. The number of "roll-your-own" tobacco containers exported and the number of individual cigarettes in each container;
8. The number of individual cigarettes of each brand of each non-participating manufacturer for which the tobacco distributor obtained a tax refund under A.R.S. § 42-3008, separately stating:
 - a. The number of cigarette packages for which the tobacco distributor obtained a tax refund and the number of individual cigarettes in each package; and
 - b. The number of "roll-your-own" tobacco containers for which the tobacco distributor obtained a tax refund and the number of individual cigarettes in each container; and
9. The invoice number and a copy of each invoice relating to the tobacco distributor's:
 - a. Purchase or acquisition of non-participating manufacturer's cigarettes received or sold by the tobacco distributor in Arizona; and
 - b. Export, if any, of non-participating manufacturer's cigarettes from Arizona.
- D.** A tobacco distributor shall file the report required under subsection (C) with the Department by the 20th day of the month following the month for which the report is made. Reports for cigarettes sold in Arizona after April 24, 2000, and before the effective date of this Section are due 60 days after the effective date of this Section.
- E.** A tobacco distributor shall maintain all records relating to or reflecting its purchase and sale of non-participating manufacturers' cigarettes after April 24, 2000, for a period of four years after the date of sale. The tobacco distributor shall make the records available to the Department upon request by the Department.
- F.** Subject to the requirements of R15-3-308, the Department may revoke a license issued to a tobacco distributor under A.R.S. § 42-3201 if the tobacco distributor fails to comply with this Section, based on the severity of the violations.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE SERVICES DIVISION**

PREAMBLE

1. Sections Affected:
R17-1-102
Table B

Rulemaking Action:
Amend
Amend

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2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 28-366 and 41-1073

Implementing statutes: A.R.S. §§ 41-1072 through and 41-1076

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: October, 12, 2001

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Wendy S. LeStarge, Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079

Telephone: (602) 712-6007

Fax: (602) 241-1624

E-mail: wlestage@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:
www.dot.state.az.us/about/rules.

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Arizona Department of Transportation recently amended its Licensing Time-frames rule. The Department is amending the Licensing Time-frames rule again to make additional modifications to the existing provisions. The Department is increasing the length of administrative completeness review for two permits. It is also amending the rule so that when an applicant fails to respond to a request for additional information, the Department will treat the application as withdrawn and not send out a notice of denial.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

This rulemaking will have minimal to moderate costs, consistent with any formal rulemaking, to the agency, the Governor's Regulatory Review Council, and the Secretary of State's Office. The general public should benefit by knowing and being able to plan on how long the agency will take to decide on a license. The general public may face a not readily quantifiable cost due to the time-frame increase of 15 days to conduct an administrative completeness review for encroachment permits. The agency issues encroachment permits statewide. Some of the agency's statewide offices have few staff. If permits staff is out sick or on annual leave, the agency office may be unable to conduct an administrative completeness review in 15 days. The agency should have a minimal to moderate benefit in no longer having to mail a notice of denial to an applicant who fails to respond.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Wendy S. LeStarge, Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079

Telephone: (602) 712-6007

Fax: (602) 241-1624

E-mail: wlestage@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is scheduled for this rulemaking. Written, faxed and e-mailed comments, or requests for an oral proceeding may be made by contacting the officer listed in item #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period shall continue for 30 days from this notice's publication date. This rulemaking's public record will close at 4:30 p.m. on November 19, 2001.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE SERVICES DIVISION**

ARTICLE 1. GENERAL PROVISIONS

Section
R17-1-102.
Table B.

ARTICLE 1. GENERAL PROVISIONS

R17-1-102. Licensing Time-frames

- A.** Time-frames. The time-frames listed in Tables A and B apply to licenses issued by the Department.
1. "Department" means the Arizona Department of Transportation.
 2. "License" has the meaning prescribed in A.R.S. § 41-1001(10).
 3. "Administrative completeness review time-frame" has the meaning prescribed in A.R.S. § 41-1072(1).
 4. "Overall time-frame" has the meaning prescribed in A.R.S. § 41-1072(2).
 5. "Substantive review time-frame" has the meaning prescribed in A.R.S. § 41-1072(3).
- B.** Administrative completeness review - notice of deficiency. Within the time-frame for the administrative completeness review listed in Tables A and B, the Department shall notify the applicant in writing that the application is complete or incomplete. If the application is incomplete, the Department shall issue a notice of deficiency to the applicant specifying the information required to make the application administratively complete.
1. The notice of deficiency shall list all missing information.
 2. A notice of deficiency issued by the Department within the administrative completeness review time-frame suspends the administrative completeness review time-frame and the overall time-frame, from the date the Department issues the notice of deficiency until the date that the Department receives all missing information from the applicant.
- C.** Denial during administrative completeness review.
1. The applicant may withdraw the application during the 60-day response period. If the applicant withdraws the application, the Department shall not issue a written notice of denial. If the applicant wishes to obtain a license after withdrawal of the application, an applicant shall submit a new application.
 2. ~~The Department shall issue a written notice of denial to an applicant if~~ If the applicant does not withdraw the application and does not respond, within 60 days after the date on a notice of deficiency issued under subsection (B), to each item listed in the notice of deficiency, the Department shall treat the application as withdrawn. The Department shall not issue a written notice of denial.
 3. The Department may issue a written notice of denial to an applicant before finding administrative completeness if the information provided by the applicant demonstrates that the applicant is not eligible for a license under the relevant statute or rules.
 4. A notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- D.** Substantive review - additional information. Within the time-frame for the substantive review listed in Tables A and B, the Department may issue a comprehensive request for additional information, or by mutual agreement with the applicant, issue a supplemental request for additional information.
1. Any request for additional information shall list all items of information required.

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2. Any request for additional information issued by the Department within the substantive review time-frame suspends the substantive review time-frame and overall time-frame, from the date the Department issues the request until the date that the Department receives all the required additional information from the applicant.
- E. Denial during substantive review. The following provisions apply:
 1. The applicant may withdraw the application during the response period. If the applicant withdraws the application, the Department shall not issue a written notice of denial. If the applicant wishes to obtain a license after withdrawal of an application, an applicant shall submit a new application.
 2. ~~The Department shall issue a written notice of denial to an applicant if~~ If the applicant does not withdraw the application and does not respond, 60 days after the date on a request for additional information under subsection (D), to each item required by the request, the Department shall treat the application as withdrawn. The Department shall not issue a written notice of denial.
 3. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- F. Notification after substantive review. Upon completion of the substantive review, the Department shall notify the applicant in writing that the license is granted or denied within the overall time-frames listed in Tables A and B. A notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- G. Applicant response period. In computing the applicant's response periods prescribed in this Section, the last day of a response period is counted. If the last day is a Saturday, Sunday, or legal holiday, the applicant's response period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- H. Effective date. This Section applies to applications filed with the Department on or after the effective date of this Section.

Table B. Intermodal Transportation Division

| LICENSE | STATUTORY AUTHORITY | ADMINISTRATIVE COMPLETENESS REVIEW TIME-FRAME | SUBSTANTIVE REVIEW TIME-FRAME | OVERALL TIME-FRAME |
|----------------------------|--|---|-------------------------------|------------------------|
| Outdoor advertising permit | A.R.S. §§ 28-7901 to 28-7909 | 30 days | 30 days | 60 days |
| Encroachment permit | A.R.S. §§ 28-7053(A), 7053(D), 7045(2) | 45 30 days | 120 days | 45 150 days |
| Junkyard screening license | A.R.S. §§ 28-7941 to 28-7943 | 40 30 days | 30 60 days | 40 90 days |

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

TITLE, REGISTRATION, AND DRIVER LICENSES

PREAMBLE

1. **Sections affected:** R17-4-455
Appendix E
Rulemaking Action: Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. § 28-7045
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: October 12, 2001

Arizona Administrative Register
Notices of Proposed Rulemaking

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Wendy S. LeStarge, Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079

Telephone: (602) 712-6007

Fax: (602) 241-1624

E-mail: wlestarge@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:
www.dot.state.az.us/about/rules.

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Department of Transportation is rewriting its entire body of administrative rules regulating statewide overdimensional permits. Even though the rewriting of the overdimensional permits rules is ongoing, the Department needs to amend specific restrictions. The Department is proposing a minor change to Appendix E, which is the table of restricted routes and escort requirements for all Arizona highways. The Department is lifting the restrictions on the remaining portion of State Route 68. The highway has been reengineered. Restrictions are no longer necessary. The Department is also imposing a 40 foot length restriction on US Route 191 which is currently enforced by signing.

The rulemaking for rewriting all rules regulating statewide overdimensional permits will continue and will incorporate the changes that this rulemaking proposes. The Notice of Rulemaking Docket Opening for the all-encompassing rulemaking on overdimensional permits was published in 7 A.A.R. 3683, August 24, 2001.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Department is lifting the restriction that requires vehicles over specified dimensions to travel with accompanying front and rear escort vehicles. By lifting highway restrictions, this rulemaking repeals regulation, thereby benefiting all concerned parties, without decreasing public safety. Overdimensional motor carriers will be able to travel these highways without additional restrictions. ADOT and the Department of Public Safety will have less regulation to enforce for State Route 68. For US 191, the Department is informing the public of a length restriction that is currently in place. The public receives a benefit by having this information easily accessible in rule format, instead of only being informed by signs on the highway. The costs of this rulemaking to the Department, the Governor's Regulatory Review Council, and the Secretary of State are minimal clerical costs incurred in preparation, review, editing, and publishing of the rule.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Wendy S. LeStarge, Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is scheduled for this rulemaking. Written, faxed and e-mailed comments, or requests for an oral proceeding may be made by contacting the officer listed in item #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period shall continue for 30 days from this notice's publication date. This rulemaking's public record will close at 4:30 on November 19, 2001.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

TITLE, REGISTRATION, AND DRIVER LICENSES

Section

R17-4-455. Escort Vehicles

Appendix E. Table of Restricted Routes and Escort Requirements; Escort Requirements for Class A Permits

ARTICLE 4. DRIVERS LICENSES

APPENDIX E

TABLE OF RESTRICTED ROUTES AND ESCORT REQUIREMENTS

| ROUTE | FROM | TO | AT AND OVER A WIDTH OF | ESCORT –SPECIAL CONDITIONS |
|------------------|--|----------------------|---------------------------|-------------------------------|
| US 60 | Jct SR 61 | Jct US 180 | 12 | F/R |
| US 61 | Jct US 60 | Jct US 180 | 12 | F/R |
| SR 61 | Jct US 191 | State Line | 10 | F/R |
| SR 64 | Milepost 237.1 | Jct US 89 | 12 | F/R |
| US 66 | Jct I-40 West Flagstaff Traffic Interchange | Jct US 89 | 12 | F/R |
| SR 67 | Jct US A89 | North Rim | 10 | F/R |
| SR 68 | Jct SR 95 | MP 14 | 12 | F/R |
| SR 71 | Jct US 60 | Jct US 89 | 12 | F/R |
| SR 72 | Jct SR 95 | Jct US 60 | 12 | F/R |
| SR 73 | Jct US 60 | Jct Fort Apache Road | 10 | F/R |
| SR 77 | Winkelman | Jct US 70 | 12 | F/R |
| SR 77 | Show Low | Holbrook | 12 | F/R |
| SR 78 | Jct SR 75 and US 191 | State Line | 12 | F/R |
| US 80 | Douglas | State Line | 12 | F/R |
| SR 82 | Sonoita | Jct US 80 | 12 | F/R |
| SR 83 | Sonoita | Route End | 10 | F/R |
| SR 85 | International Boundary | Ajo | 12 | F/R |
| SR 86 | Why (Jct SR 85) | Jct SR 286 | 12 | F/R |

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| | | | | |
|---------------|---------------------------|----------------------------|--------------|--------------------|
| SR 87 | MP 117.85 (McDowell) | Winslow | 12 | F/R |
| SR 88 | Jct US 60 (Apache Jct) | MP 242.04 (Roosevelt) | (Over Legal) | See Note #1 |
| SR 88 | MP 242.04 (Roosevelt) | Jct US 60 (Miami) | 12 | F/R |
| US 89 | Jct US 93 | Jct SR 69 (Prescott) | 12 | F/R |
| US A89 | Jct US 89 (Prescott) | Jct SR 179 (Sedona) | 12 | F/R |
| US A89 | Jct SR 179 (Sedona) | Flagstaff | 10 | F/R |
| US A89 | Jct US (Bitter Springs) | Jacob Lake | (Legal Only) | See Note #1 |
| US A89 | Jacob Lake | Fredonia | 12 | F/R |
| US 93 | Hoover Dam | MP 1.02 | 10 | F/R |
| US 93 | Wikieup | Jct SR 97 | 12 | F/R |
| SR 95 | Quartzsite | MP 148.02 | 12 | F/R |
| SR 95 | MP 148.02 | MP 154.88 | 10 | F/R |
| SR 95 | Topock | Needles Bridge Road | 12 | F/R |
| SR 96 | Jct SR 97 | Hillside | 10 | F/R |
| US 163 | Jct US 160 (Kayenta) | State Line | 12 | F/R |
| SR 170 | Jct US 70 | Route End | 12 | F/R |
| SR 179 | Jct Interstate 17 | Sedona | 12 | F/R |
| US 180 | Jct SR 64 | Flagstaff | 12 | F/R |
| US 180 | Jct US 60 (Springerville) | Jct US 191 (Alpine) | 12 | F/R |
| SR 181 | Jct US 191 | Chiricahua Nat'l Monument | 12 | F/R |
| SR 186 | Dos Cabezas (MP 342.92) | Jct SR 181 | 10 | F/R |
| SR 187 | Jct 387 | Jct SR 87 | 12 | F/R |
| SR 188 | Jct SR 88 (Roosevelt) | MP 255.44 | (Legal Only) | See Note #1 |
| SR 188 | MP 255.44 | Jct SR 87 | 12 | F/R |
| US 191 | Jct Interstate 40 | Jct US 160 | 12 | F/R |
| <u>US 191</u> | <u>MP 173.18</u> | <u>Jct US 180 (Alpine)</u> | | <u>See Note #2</u> |
| SR 260 | Jct SR 87 (Payson) | Jct SR 277 (Overgaard) | 12 | F/R |
| SR 260 | Indian Pine (MP 357.47) | Jct US 180 | 12 | F/R |
| SR 264 | Jct US 160 | MP 471.29 | 12 | F/R |
| SR 273 | Jct SR 260 | Jct SR 260 | 10 | F/R |
| SR 277 | Jct SR 260 (Heber) | Jct SR 77 (Snowflake) | 12 | F/R |
| SR 286 | International Boundary | Jct SR 86 | 12 | F/R |
| SR 288 | Jct SR 88 | Route End (Near Young) | (Legal Only) | See Note #1 |
| SR 289 | Jct Interstate 19 | Route End | 10 | F/R |
| SR 366 | MP 115 | Route End (Graham Peak) | (Legal Only) | See Note #1 |
| SR 373 | Jct SR 260 | Route End | 12 | F/R |
| SR 377 | Jct SR 277 | Jct SR 77 | 12 | F/R |
| SR 386 | Jct SR 86 | Kitt Peak | 10 | F/R |
| SR 473 | Jct SR 260 | Route End (Hawley Lake) | 10 | F/R |

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| | | | | |
|--------|-------------|---------------------|--------------|-------------|
| SR 564 | Jct US 160 | Route End | 12 | F/R |
| US 191 | MP 173.18 | Jct US 180 (Alpine) | (Legal Only) | See Note #1 |
| US 191 | Saint Johns | Jct Interstate 40 | 12 | F/R |

Note #1: Movements over legal size and weight will be considered under Class C permits only.

Note #2: Maximum length allowed is 40 feet.

Abbreviations: MP – Milepost, F/R - Escorts at Front and Rear

Jct - Junction of Routes

APPENDIX E

ESCORT REQUIREMENTS FOR CLASS A PERMITS

